IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 699 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Or

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5. Whether it is to be circulated to the Civil Judge? : NO

PRAMODRAY MANILAL VYAS

Versus

STATE OF GUJARAT

Appearance:

MR AJ MEMON for Petitioner

MS NANDINI JOSHI ASST.GOVERNMENT PLEADER for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 14/06/2001

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner, Manager of Apsara Cinema in

Maninagar area has challenged the legality of Rule 126 of the Bombay Cinema Rules, 1954 and has prayed for a declaration that the same is ultra-vires the Act and is also violative of fundamental right of the petitioner. The petitioner has also challenged the communication dated 4-10-1982 from the Commissioner of Police, Ahmedabad city rejecting the petitioner's application for permission to open a pan bidi cigarette stall.

2. While admitting this petition, it was ordered to be heard with special civil application No.4274/82 as similar challenges were raised in the said petition also. Ms. Nandini Joshi, learned AGP, appearing for the respondents state that special civil application No.4274/82 raising similar challenges has already been decided by the judgment and order dated 7-4-2000 wherein the legality of Rule 126 of the Rules has been upheld. The Court held that the phrase `cinema premises" occurring in Rule 126 does not merely mean the building of the cinema theatre, but it has a broad connotation and would increase entire premises in which the cinema theatre is located. Therefore, the expression "cinema premises" in Rule 126 would include the entire plot on which the permanent cinema is located. This Court further held that the requirement of permission of the Licensing Authority for putting to use any cinema premises for a purpose other than for the purpose of exhibition of cinema, cannot be said to be an unreasonable restriction on the fundamental rights guaranteed by the Constitution.

3. In view of the above, the only question which survives is about legality of the impugned communication at Annexure `C' to the petition. It is stated in the said impugned communication that the galla was situated inside the compound where the people stand before the show starts. The compound is common for Apsara and Aradhana cinemas and accommodate all the cine-goers. The people have to stand on the road and it causes traffic congestion and the pan-galla will further reduce the size of the compound. The reasons given by the authority for rejection of permission for putting pan-bidi galla in the compound are therefore based on relevant considerations and within the scope of provisions of Rule 126.

4. In view of the above discussion, the petition is dismissed with no order as to costs. Rule is discharged. Interim relief granted earlier stands vacated.

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zgs/-